PROVINCE OF SASKATCHEWAN

2009

ANNUAL REPORT

MINISTRY OF JUSTICE AND ATTORNEY GENERAL

Public and Private
Rights Board

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This annual report is also available in electronic format from the Ministry's website at **www.justice.gov.sk.ca.**

Letter of Transmittal

March 23, 2010

Honourable Brad Wall
President of Executive Council

Dear Mr. Premier:

As per subsection 6(3) of *The Expropriation Procedure Act,* I have the honour to submit to you the Annual Report of the Public and Private Rights Board for the period January 1, 2009, to December 31, 2009.

Respectfully submitted,

K. W. Acton
Chairman

Staff

The staff of the Public and Private Rights Board are:

K. W. Acton, Chairman

Verna LeBlanc, Administrative Assistant

Message from the Chairman

Under *The Expropriation Procedure Act*, the Public and Private Rights Board has the authority to review matters relating to the expropriation of land, or the intention to acquire land by expropriating authorities. The Board investigates claims and manages negotiations between landowners and expropriating authorities in an effort to help the parties reach mutually acceptable solutions.

Landowners may request the Board to review either or both:

- The route, situation or design of a public improvement.
- The amount of compensation offered for the expropriated land.

The primary role of the Public and Private Rights Board is dispute resolution. The Board assists landowners and expropriating authorities in reaching agreement on the most appropriate route or design of a public improvement and/or what fair and reasonable compensation should be paid for the required land or easement.

> The primary purpose of compensation is to place the owner whose land has been taken in the same position financially as he was prior to the taking. On the one hand, the owner should not receive a windfall or unjust enrichment as a result of the taking. On the other hand, the owner should not be required to shoulder an economic loss for the general public benefit which is achieved as a result of the taking.[1]

In 2009 the Board undertook to work with expropriating agencies to discuss potential dispute resolution improvements and to review current practices, particularly where a home or base of business is involved.

This work has been commenced with the co-operation of several expropriating agencies; Ministry of Highways, SaskEnergy, SaskPower and SaskTel. Upon review of other expropriating legislation, the Board also initiated discussions with SaskWater and Saskatchewan Watershed Authority to review their expropriating procedures.

The purpose of this work is to support these agencies in achieving their objectives by using dispute resolution methods to their optimum and utilizing the Board as mandated. A further purpose is to review the Board's own procedures in assisting both landowners and expropriating agencies equally to fairly resolve concerns.

The relevant documentation and internal processes for expropriation employed by the expropriating agencies were examined. We have received excellent co-operation from all the expropriating authorities and will continue this work in 2010.

The Board is fulfilling its mandate to assist landowners and expropriating agencies to reach agreements when expropriation has been commenced. The Board assists parties in their negotiation and, if necessary, mediates a settlement even before initiation of the formal expropriation process. This is beneficial to all the parties. It brings a neutral third party to work with them to ensure accountability, clear understanding and openness.

The continuing process review will further promote earlier, proactive support from the Board in complex or sensitive cases.

1. Kenneth J. Boyd, *Expropriation in Canada - A Practitioner's Guide* (Aurora, Ontario: Canada Law Book, 1988), p. 27.

Tables

a. Number and Nature of Claims Received, Negotiated, Completed, Withdrawn and Carried Forward by the Board in 2009

i. Number and Nature of Claims Negotiated in 2009

(A) Carried forward from 2008:

i) Route, Situation or Design	1
ii) Compensation	4
Subtotal	5

(B) New claims received in 2009:

i) Route, Situation or Design	4
ii) Compensation	7
iii) Claims withdrawn in 2009	0
Subtotal	11

ii. Number and Nature of Claims Completed in 2009

i) Route, Situation or Design	2
ii) Compensation	6
Total	**8**

iii. Number and Nature of Claims Carried Forward into 2010

i) Route, Situation or Design	3
ii) Compensation	5
Total	**8**

b. Number and Nature of Claims Received by the Board in 2009 (by Expropriating Authority)

Expropriating Authority	Route, Situation or Design	Compensation	Total
SaskTel	2	4	6
SaskPower	0	2	2
Highways	2	1	3
Miscellaneous	0	0	0

c. Number and Nature of Claims Initiated with the Board in 2009 (by Expropriating Authority)

Expropriating Authority	Route, Situation or Design	Compensation	Total
SaskTel	2	4	6
SaskPower	0	2	2
Highways	2	1	3
Miscellaneous	0	0	0

d. Resolution of Claims Initiated with the Board in 2009 (by Expropriating Authority)

Expropriating Authority	Negotiated Successfully	Negotiated Unsuccessfully	Withdrawn	Total
SaskTel	2	1	0	3
SaskPower	1	0	0	1
Highways	3	1	0	4
Miscellaneous	0	0	0	0

e. Number and Nature of Claims Received by the Board in (1999-2009)

Year	Route, Situation or Design	Compensation	Total
1999	0	2	2
2000	3	3	6
2001	2	2	4
2002	8	3	11
2003	1	2	3
2004	2	0	2
2005	0	5	5
2006	1	2	3
2007	3	3	6
2008	3	3	6
2009	4	7	11

f. Number of Claims Received by the Board (1999-2009) by Expropriating Authority

Year	Conservation & Development Area Authorities	SaskTel	Sask Power	Sask Energy	Sask Highways	Misc.
1999	0	1	0	0	0	1
2000	0	4	0	0	2	0
2001	0	1	0	0	1	2
2002	2	1	0	0	7	1
2003	0	0	1	0	1	1
2004	0	1	0	0	0	1
2005	0	1	1	0	3	0
2006	0	0	0	1	1	1
2007	0	2	0	0	3	1
2008	0	1	1	0	4	0
2009	0	6	2	0	3	0